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ALLIANCES IN MEXICO
AND SRI LANKA

August 25, 2020

VIA ECF

The Honorable Robert B. Kugler
United States District Judge
District of New Jersey

The Honorable Joel Schneider
United States Magistrate Judge
District of New Jersey

**Re: In re Valsartan, Losartan, and Irbesartan Products Liability Litigation
Case No. 1:19-md-02875-RBK-JS**

Dear Judge Kugler and Judge Schneider:

This letter is to provide Defendants' positions with respect to the topics on the agenda for the conference with the Court on August 25.

1. **Plaintiff Fact Sheet Orders to Show Cause**

(a) **Cases Addressed at the July 29, 2020 Case Management Conference**

As a preliminary matter, Defendants note that the Court did not issue show cause orders for the cases previously addressed at the July 29, 2020 Case Management Conference where no objection was raised with respect to any of the "Second Listing" cases identified in Defendants' Position Statement. (Doc. 530). To the extent the Court wishes Defendants to take additional steps to facilitate this process, we ask for clarification and are of course happy to assist going forward.

Subsequent to last months' CMC, Plaintiff Fact Sheets were filed in a number of these cases, and Defendants accordingly are no longer requesting orders to show cause in all twelve (12) of those matters. The six (6) cases previously listed for a second time where Defendants continue to seek orders to show cause based on overdue PFSs are identified below:

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	Plaintiff	Civil Action No.	Law Firm	Deficiencies	PFS Due (60 days + SFC)
1.	Cantrell, Marcia	2019-cv-14891	Golden Law Office	Failed to File PFS	SFC: 9/11/19 PFS Due: 11/10/19
2.	DeShields, Nettie	20-01030	Douglas & London	Failed to File PFS	SFC: 1/30/20 PFS: 3/30/20
3.	Fougere, Therese	19-17597	Law Offices of Pius A. Obioha & Associates, LLC	Failed to File PFS	SFC: 1/29/20 PFS Due: 3/29/20
4.	Jones, Philip	20-cv-2795	Douglas & London	Failed to File PFS	SFC: 3/13/20 PFS Due: 4/14/20
5.	Pittman, Charleston	2019 -CV-15638	Law Offices of John D. Sileo LLC	Failed to File PFS	SFC: 4/3/20 PFS Due: 6/2/20
6.	Williams, Charles	2019 - CV- 07632	Levin Papantonio	Failed to File PFS	SFC: 9/20/19 PFS Due: 11/19/19

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(b) Second Listing Cases – Remaining Core Deficiencies

Pursuant to CMO-16, the Plaintiff Fact Sheets in the below cases are substantially incomplete and contain core deficiencies. Each of these six (6) cases was previously listed on the agenda for the June 24, 2020 CMC (Doc. 488-1). The parties met and conferred during July 2020 on each of these matters, and Plaintiffs' counsel represented that these deficiencies would be cured within 14 days of the July 29, 2020 CMC. Moreover, when these deficiencies continued to be uncured, Defendants provided a list including these cases and identified deficiencies to Plaintiffs' leadership counsel for distribution on August 20, 2020, met and conferred with Plaintiffs' counsel on August 21, 2020, and have been available for further meet and confers as needed.

Accordingly, Defendants request that an Order to Show Cause be entered in each of these cases, returnable at the next case management conference, as to why the case should not be dismissed.

Defense counsel will be prepared to address the individual issues with respect to each of these cases, to the extent necessary, during the August 26th Case Management Conference.

	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
1.	Needy, Lenny	1:19-cv- 15051	Golden Law Office	IV.D.2.d - Failed to provide complete information. Objections to Collateral Source Rule are not permissible. II.D.2.e - Failed to provide complete information. Objections to Collateral Source Rule are not permissible. V.E.3 - Failed to provide complete information re Alcohol Use history. XI.A.1 - Failed to provide properly signed, undated, and completed authorization. Failed to complete provider	2/5/20	June 2020

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
				<p>information and undated authorization.</p> <p>XI.A.4 - Failed to provide properly signed, undated, and completed authorization. - Failed to complete provider information and undated authorization.</p> <p>XI.A.5 - Failed to provide properly signed, undated, and completed authorization. - Relevance objections are inadequate and improper response to court-approved fact sheet</p> <p>XI.A.6 - Failed to provide properly signed, undated, and completed authorization. - Objections are an inadequate and improper response to court-approved fact sheet</p> <p>XI.A.7 - Failed to provide properly completed authorization. - Failed to complete provider information and undated authorization.</p>		

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
2.	Stano, David	1:19-cv- 18080	Gennusa Piacun & Ruli	<p>I.C.2 - Failed to attach records.</p> <p>I.D.1 - Failed to attach records.</p> <p>I.D.2 - Failed to respond.</p> <p>I.D.3 - Failed to respond.</p> <p>I.D.4 - Failed to respond.</p> <p>I.D.5 - Failed to respond.</p> <p>I.D.6 - Failed to respond.</p> <p>I.D.7 - Failed to respond.</p> <p>I.D.8 - Failed to respond.</p> <p>III.C.1 - Failed to respond.</p> <p>III.C.2.a - Failed to respond.</p> <p>III.C.3 - Failed to respond.</p> <p>III.C.3 - Failed to respond.</p> <p>III.C.3.a.i - Failed to respond.</p> <p>III.C.3.a.ii - Failed to respond.</p> <p>III.C.3.b - Failed to respond.</p> <p>III.C.3.c.i - Failed to respond.</p>	2/5/20	June 2020

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
				<p>III.D.3 - Failed to respond.</p> <p>III.G.a - Failed to respond.</p> <p>III.G.b - Failed to respond.</p> <p>III.G.c - Failed to respond.</p> <p>III.H. - Failed to respond.</p> <p>IV.C.2 - Failed to provide address and telephone number for Humana Pharmacy and failed to provide telephone number for All Saints Pharmacy. Please clarify</p> <p>IV.C.3 - Failed to provide approximate begin dates for Humana Pharmacy and All Saints Pharmacy. Please clarify</p> <p>V.D1.a - Failed to respond.</p> <p>V.D1.b - Failed to respond.</p> <p>V.D1.d - Failed to provide complete information. - Amount used is ambiguous. Please clarify</p> <p>V.D1.d.i - Failed to provide complete information. - On average is ambiguous. Please clarify</p>		

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
				V.D1.d.(iii) - Failed to respond. V.E.1 - Failed to respond. V.F.27 - Failed to respond. V.F.45 - Failed to respond. V.F.46 - Failed to respond. V.F.47 - Failed to respond. V.F.49 - Failed to respond. V.F.50 - Failed to respond. V.F.51 - Failed to respond. XI.A.1 - Failed to provide properly completed authorization. - Failed to provide requisite number of health care authorizations. Please supplement XI.A.1 - Failed to provide properly completed authorization. - Failed to provide requisite number of health care authorizations. Please supplement XI.A.6 - Failed to provide properly signed, dated, and completed authorization.		

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
				<p>XI.A.7 - Failed to provide properly completed authorization.</p> <p>XI.B.10 - Failed to provide records requested.</p> <p>XI.B.18 - Failed to provide records requested. - Also inconsistent with Section III.G where no medical expenses were listed. Please clarify</p>		
3.	Thompson, Kim	1:19:CV:15 135	Golden Law Office, PLLC	<p>I.C.4 - Failed to provide NDC Code for Valsartan taken between July 1, 2014 and August 2016, and for Valsartan taken between August 15, 2013 and January 2014.</p> <p>I.C.13 - Failed to identify prescribing physician for Valsartan taken between July 1, 2014 and August 2016, and for Valsartan taken between August 15, 2013 and January 2014.</p> <p>IV.D.1 - Failed to identify health insurance carrier(s), policy number(s), and dates of coverage.</p>	2/5/20	February 2020

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
				<p>Plaintiffs are not permitted to object to court-approved requests for health insurance information/authorizations.</p> <p>XI.A.1 – Failure to produce individual health care authorizations for identified providers and pharmacies. Pursuant to the Court’s May 29, 2020 Order, a single blank healthcare authorization is insufficient.</p> <p>XI.A.6 – Failed to provide insurance record authorization(s). Plaintiffs are not permitted to object to court-approved requests for health insurance information/authorizations.</p>		
4.	Wilson, Winnifried	20-cv-00458	Moore Law Group PLLC	<p>III.G.a – Incomplete response (Failure to complete any subsection associated with a specific damage claim, to the extent claimed)</p> <p>III.G.b – Incomplete response (Failure to complete any subsection associated with a specific damage claim, to the extent claimed)</p>	3/25/20	June 2020

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent	Prior Agenda Listing
				<p>III.G.c – Incomplete response (Failure to complete any subsection associated with a specific damage claim, to the extent claimed)</p> <p>Need medical expenses from oncologist and psychiatrist</p>		

(c) First Listing Cases – Remaining Core Deficiencies

The following Plaintiff Fact Sheet contains core deficiencies which remain unresolved. Defendants provided a list including these cases and identified deficiencies to Plaintiffs on August 20, 2020, met and conferred with Plaintiffs' counsel on August 21, 2020, and have been available for further meet and confers as needed. This is the first time these cases have been listed on this agenda. Accordingly, Defendants are not requesting orders to show cause with respect to any of the below cases at this time, and will continue to meet and confer to resolve these deficiencies.

	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
1.	Cheatwood , Gary	20:cv:06400	Parafinczuk Wolf Susan	<p>I.C.10 - Plaintiff identifies the start date for Valsartan use as January 20, 2015 in the First Amended PFS. However, this date does not match the information reflected in the produced pharmacy records. The produced pharmacy records indicate Plaintiff's Valsartan use began on October 25, 2014</p> <p>II.D.4 – Plaintiff failed to provide the dates of exposures in Plaintiff's diet including red and/or processed meats and smoked foods, salted meat and fish, and/or pickled vegetables.</p>	7/17/20

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
				<p>IV.C.3 - Plaintiff did not provide the amounts for the identified medical expenses</p> <p>V.G.1-4 - Plaintiff failed to include any information regarding the identified conditions of colon polyp or diagnosed obesity.</p> <p>XI.A.1 – Did not produce health care authorizations for all identified providers, treating facilities, and pharmacies.</p> <p>XI.A.6 – Did not produce an undated health insurance records authorization for the identified insurance carrier.</p>	
2.	Gehefer, Margaret	20:cv:01305	Goldenberg Law, PLLC	<p>II.D.4 - Exposure: Plaintiff still failed to answer the requests regarding exposure in Plaintiff's diet including red and/or processed meats and smoked foods, salted meat and fish, and/or pickled vegetables.</p> <p>IV.A.4 – Start Date for Treatment with Dr. Eyal Meiri: Plaintiff still failed to provide the approximate start date for treatment with Dr. Eyal Meiri.</p> <p>IV.D.3 – Dates of Coverage: Plaintiff still did not provide the approximate dates of coverage for the identified insurance carrier.</p> <p>V.G.1-4 - Identified Conditions of Colon Polyps, Hypertension, Diabetes, and Depression: Plaintiff still did not provide any information regarding the health care providers for the identified conditions of colon polyp, hypertension, diabetes, and depression. Plaintiff also still did not</p>	5/25/20

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
				<p>provide the approximate date of onset for hypertension, diabetes, and depression.</p> <p>VI.A.1-6 – Medications: Plaintiff’s answer of “N/A” to the requests to identify medications taken by Plaintiff in the ten years prior to when Plaintiff first took Valsartan is insufficient. Plaintiff’s Valsartan use began in October 2012 and the produced pharmacy records show other medications used by Plaintiff dating back to April 2010. Please supplement and amend these responses accordingly.</p> <p>VI.B.1-6 – Over the Counter Prescriptions: Plaintiff’s responded “to be supplemented” to the requests to identify any over the counter medications taken during the three year period before the onset of injuries for which recovery is sought in this case. However, Plaintiff has not provided supplemental answers. Please supplement these responses.</p> <p>XI.A.1 – Health Care Authorizations: Plaintiff did not produce any health care authorizations for the identified health care providers, treating facilities, and pharmacies. Please produce properly executed and undated health care authorizations for each identified health care provider, treating facility, and pharmacy.</p> <p>XI.A.6 – Health Insurance Record Authorization: Plaintiff did not produce a health insurance record authorization for the identified insurance carrier. Please produce a properly executed and undated health insurance records authorization for</p>	

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
				<p>each of the identified health insurance carrier.</p> <p>XI.A.7 - Mental Health Records Authorizations: Plaintiff did not produce a mental health record authorization. Please produce properly executed and undated mental health records authorizations for each provider and facility where Plaintiff has sought mental health treatment.</p> <p>XII – Declaration: Plaintiff still not produce an executed declaration for the PFS. Please produce a properly executed Declaration.</p>	
3.	Smith, Glenn	20:cv:05154	The Law Offices of Kenneth W. DeJean	<p>II.H.3,4 - Plaintiff has not provided complete information regarding the two (2) identified auto accident lawsuits, including the case captions and the civil action or docket numbers. Plaintiff also has not provided the names of adverse parties for the second identified auto accident lawsuit.</p> <p>III.G.a-c – Plaintiff has not provided any information regarding medical expenses for which Plaintiff is seeking recovery.</p> <p>V.E.1-3 – Plaintiff indicated in the PFS that he has not used alcohol in the previous ten (10) years. Please confirm and clarify Plaintiff's alcohol use back to 2005.</p> <p>VI.A.4&6 – Plaintiff failed to provide any information regarding the dosage, the frequency of use, or the pharmacy utilized for his identified Diovan prescription.</p>	7/17/20

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
				XI.A.1 – Plaintiff did not produce health care authorizations for all identified providers.	
4.	Smith, Freddy	20-cv-2719	Golden Law Office, PLLC	<i>Amended PFS filed on August 24, 2020. Remaining Core Deficiencies are as follows:</i> XI.A.1 – Failure to produce individual health care authorizations for identified providers and pharmacies.	5/26/20
5.	Yum, Art	20-cv-03823	Watts Guerra LLP	I.C.2 – Plaintiff has still not produced photographs (with visible NDC codes) of the Valsartan packaging or container Plaintiff indicated is in his possession in Section III.B.5 of the PFS. XI.A.7 – Plaintiff has still not produced mental health authorizations but has asserted an alleged mental and/or emotional injury purportedly as a result of Valsartan use.	6/26/20
6.	Martinez, Roberto	20-cv-03376	Watts Guerra, LLP	I.C.2 - The Valsartan labels produced do not contain NDC codes. Please produce the complete labeling that contains NDC codes. XI.B.2 – Plaintiff identifies utilizing Walmart pharmacy, but has not produced Walmart pharmacy records. Please produce Walmart pharmacy records. XI.B.6 – The Valsartan labels provided do not contain NDC codes. Please produce the complete labels that contain NDC codes.	6/16/20

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
7.	Van Kooten, Todd	1:20-cv-02249	Levin Papantonio	<p>I.B Failed to provide information for spouse.</p> <p>III.D.1 “Cancer symptoms” is an insufficient response.</p> <p>III.G Failed to provide complete expense information.</p> <p>XII Failed to provide signed and dated, declaration (declaration not dated)</p>	6/11/20
8.	Whitfield, Jeffrey	1:20-02253	Levin Papantonio	<p>I.B Failed to provide information for spouse.</p> <p>III.D.1.R.1 Failed to provide complete information. Plaintiff fails to identify his “Liver Cancer Symptoms”</p> <p>XI.A.1 Fact Sheet identifies a Dr. Rahul Grant and Dr. Rahul Garg. Please clarify which is correct and revise or add authorization if necessary.</p>	6/11/2020
9.	King, John	2019-cv-15648	Gainsberg Benjamin	See Deficiency Notice – no response	3/5/2020
10.	Meade, Karen	1:19-cv-15351	Kirtland & Packard	See Deficiency Notice – no response	7/27/2020
11.	Cicciarelli, Estate of Margaret	1:20-cv-02821	Levin Papantonio	See deficiency notice – no response	7/20/2020
12.	Gioia, Joseph	1:20-01352	Rheingold Giuffra Ruffo Plotkin	<p>See Deficiency Notice – no response</p> <p>Core deficiencies include:</p> <p>I.C. Failed to attach records, Failed to attach copies of prescription/pharmacy records.</p>	5/15/2020

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
				<p>I.D. Failed to respond to all cancer claim information</p> <p>II.D.4 Failed to complete information regarding exposures</p> <p>III.C. Failed to complete information re non-cancer injuries</p> <p>III.G. Failed to complete information re medical expenses</p> <p>III.H. Failed to respond re specialized damages</p> <p>IV.C. Failed to respond re names of pharmacies</p> <p>VI. Failed to respond re list of medications</p> <p>IX. Failed to respond re fraud claims</p> <p>XI. A. Failed to provide any authorizations</p>	
13.	Bray, Paulette	1:20-cv03097	Milstein Jackson Fairchild & Wade	<p>See Deficiency Notice– no response</p> <p>Numerous core deficiencies noted in the deficiency letter, PFS was submitted with the majority of the sections completely unanswered.</p>	6/29/2020
14.	Martin, Angelle	1:20-cv-06419	Parafinczuk Wolf Susen	<p>XI.A.1, 6 - Failed to provide undated authorization.</p> <p>XI.B.1 - Failed to respond.</p> <p>XI.B.3-23 -Failed to respond.</p>	7/17/2020

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	Plaintiff	Civil Action No.	Law Firm	Core Deficiencies	Deficiency Notice Sent
15.	Sharp, Velma	1:20-cv- 06429	Parafinczuk Wolf Susen	II.D.3.a - Failed to provide complete information. Incomplete dates. Please state “health condition”; “kidney” is a body part. XI.A.1, 6 - Failed to provide undated authorization.	7/17/2020
16.	Lide, Bobby	1:20-cv- 02819	Levin Papantonio	I.B.1 - Failed to respond. Information related to spouse. III.G.a - Failed to respond. Medical expenses. V.G.2 - Failed to respond. Name, address and phone number of treating health care provider for retinal bleeding . Date of onset of retinal bleed	7/20/2020
17.	Frain, Linda	1:20-cv- 05372	Watts Guerra	See Deficiency Notice	7/21/2020
18.	Daring, Celestine	MM Class Representati ve	Hollis Law Firm, P.A.	See Deficiency Notice	7/31/2020
19.	Rives, Michael	MM Class Representati ve	Hollis Law Firm, P.A.	See Deficiency Notice	7/31/2020

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(d) First Listing Cases – Failure to File PFS

Pursuant to CMO-16, the Plaintiff Fact Sheets in the below cases are overdue. This is the first time these cases have been listed on this agenda.

	Plaintiff	Civil Action No.	Law Firm	Deficiencies	PFS Due (60 days + SFC)
1.	Lewis, Edwin	1:20-05706	Hollis Law Firm	Failed to File PFS	SFC: 5/8/2020 PFS Due: 7/7/2020
2.	Betz, Raymond	1:20-06471	Messa & Associates	Failed to File PFS	SFC: 5/28/2020 PFS Due: 7/27/2020
3.	Bowden, Virginia	1:20-06745	Morgan & Morgan	Failed to File PFS	SFC: 6/2/2020 PFS Due: 8/1/2020

2. Status of Manufacturer Defendants' Productions

In accordance with the Court's April 20, 2020 Order (Dkt. 416), the Manufacturer Defendants began making rolling document productions responsive to Plaintiffs' Requests for Production of Documents on July 15, 2020. The Manufacturer Defendants have made good faith efforts to prioritize their production of documents in accordance with Plaintiffs' proposed prioritization and will continue to make rolling productions.

By letter dated August 17, 2020, Plaintiffs expressed various concerns regarding the Manufacturer Defendants' productions. The Manufacturer Defendants responded to Plaintiffs individually, *see, e.g.*, Exhibits A, B, C, D, and E, and are willing to meet and confer in an attempt to address any issues raised by Plaintiffs.

3. Fact Deposition Protocol and Scheduling

Plaintiffs have proposed adopting in this MDL the deposition protocol the Court approved in *Benicar* with certain changes, including provisions that address COVID-19. Defendants agree that the *Benicar* deposition protocol provides a good framework for the parties in this action, but given the number of defendants interested in participating in depositions here, and given the foreign locales of many of the potential Manufacturer Defendant deponents, which include China, India, and Europe, among others, the *Benicar* deposition protocol will need to be revised to account for the differences presented by the unique circumstances of this action. Likewise, the COVID-19 provisions Plaintiffs have proposed need to be revised to be mutually agreeable to both sides.

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Defendants are compiling their comments to the deposition protocol proposed by Plaintiffs, and intend to provide Plaintiffs a revised draft by September 2.

The parties have not discussed the number of depositions each party will be entitled to take, or the schedule or location of those depositions.

Respectfully submitted,

/s/ Seth A. Goldberg

Seth A. Goldberg

cc: Adam Slater, Esq. (*via email, for distribution to Plaintiffs' Counsel*)
Jessica Priselac, Esq. (*via email, for distribution to Defendants' Counsel*)
Sarah Johnston, Esq. (*via email*)
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